

Exhibit A A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on behalf)
of himself and all others)
similarly situated,)
)
Plaintiff,) CIVIL ACTION NO.
) 1:08-cv-09361-
) PGG-HBP
v.)
)
RITE AID CORPORATION, RITE)
AID OF NEW YORK, INC.,)
and FRANCIS OFFOR as)
Aider & Abettor,)
)
Defendants.)

- - -

The deposition of PETER E. DURAN, taken on behalf of the Defendants, pursuant to the stipulations agreed to herein, before JoRita B. Meyer, Registered Merit Reporter, Certified Realtime Reporter, Certified Court Reporter, at Ogletree, Deakins, One Ninety One Peachtree Tower, 191 Peachtree Street, N.E., Suite 4800, Atlanta, Georgia, commencing at 9:50 a.m., August 1, 2011.

1 If we got the thumbs up from Doug,
2 saying, yeah, go ahead, sounds good, then second
3 interview, we would just kind of review everything
4 that we talked about the first time. You know,
5 here's the hours, this is what the job is going to
6 entail; as we're opening the store, it's going to
7 be a lot of work; you know, just kind of giving
8 the general details of the job duties.

9 And then if the employee, potential
10 employee, still seemed to be agreeable and you
11 still got a good vibe from that person, then you'd
12 say, you know, here's the dollar amount that we're
13 going to pay you per hour; what do you think? And
14 then, yeah, sounds good. Then you would tell them
15 when to be there.

16 Q. And during the second interview of a
17 particular candidate, was it you interviewing them
18 or Doug interviewing them, or both?

19 A. I know I did some. I don't know if Doug
20 did any with the cashiers. If he had an assistant
21 manager or somebody in management that he liked,
22 he would take them and I wouldn't be involved in
23 that.

24 Q. So you weren't involved in the
25 management hiring at that time; is that right?

1 A. No.

2 Q. So I said "is that right." Did you mean
3 "correct"?

4 A. Correct.

5 Q. That's okay. I just wanted to get it
6 clear for the record.

7 A. We weren't -- anybody that went into
8 management needed to talk to HR; and at that time
9 I believe they had to talk to the district
10 manager.

11 Q. When you say "at that time," did that
12 change?

13 A. Yeah, because later on it was talk to
14 the HR, loss prevention, and the district manager.

15 Q. Do you know why that change was made?

16 MS. REHMAN: Objection to form.

17 You can answer.

18 THE WITNESS: I have no real clarity as
19 to maybe why, other than they -- maybe loss
20 prevention had some other ways of looking
21 into body language.

22 Some people, they've got all these
23 little ways that loss prevention can, you
24 know, detect somebody that is lying or
25 uncomfortable. They call it -- I believe

1 it's called the reinterview. And somebody
2 that looks up to the right or down to the
3 left indicates that, you know, a question.
4 And so I think with the management potential,
5 you know, have you ever used drugs, if, you
6 know, that potential person did something,
7 they could get a -- some sort of a read on
8 it.

9 BY MS. PUCKETT:

10 Q. So there's a special expertise in loss
11 prevention in terms of detecting lies?

12 MS. REHMAN: Objection to form.

13 You can answer.

14 THE WITNESS: I don't know if it really
15 works. They just have this program that the
16 loss prevention people are privy to.

17 BY MS. PUCKETT:

18 Q. You said you hired approximately 20 to
19 25 employees during that time. Do you remember
20 how many you interviewed for those 20 to 25
21 employees you ultimately hired?

22 A. Well, it probably was -- probably 60, 70
23 people that came.

24 Q. What would distinguish a good applicant
25 from a not-so-good applicant?

1 management versus cashiers.

2 A. Well, you'd open up, you'd probably have
3 the manager, the opening manager, and a cashier.
4 The afternoon, you might wind up with the
5 assistant or a shift supervisor and maybe another
6 cashier. And in the evening, it would drop back
7 down to maybe just the management on duty and a
8 cashier.

9 Q. So in the afternoon, there was a manager
10 and two cashiers or --

11 A. There could be. I'm just kind of
12 shooting from the hip on that. You know, you
13 might have a cashier that goes home at 1 o'clock
14 when the other cashier showed up. Again, it just
15 depended on the store. And being brand-new, you
16 don't know. You just -- every -- every day is a
17 whole new experience as to how the business is
18 going to be, ads break, things like that.

19 Q. So because these were new stores, there
20 wasn't a tone already set in terms of how many
21 people would be needed; is that fair?

22 A. Correct.

23 MS. REHMAN: Objection to form.

24 You can answer.

25 THE WITNESS: Correct.

1 BY MS. PUCKETT:

2 Q. So as the manager, you had to constantly
3 be assessing how business was going; is that
4 right?

5 MS. REHMAN: Objection to form.

6 You can answer.

7 THE WITNESS: Well, yeah. You'd have to
8 look at it and say, I wrote the schedule for
9 X amount of hours because I was anticipating
10 doing \$20,000 this week and we did 15, so the
11 next week we've got to -- okay. And the
12 district manager is going to have a great
13 deal of input on that, because he or she
14 tells you, you got to have this amount of
15 hours or this percent or this amount of
16 dollars.

17 BY MS. PUCKETT:

18 Q. Are you referring to labor budgets?

19 A. I'm sorry?

20 Q. Are you referring to labor budgets when
21 you say "number of hours"?

22 A. Yes, uh-huh.

23 Q. But there wasn't a previous year to
24 refer to when citing the labor budgets for these
25 new stores, right?

1 A. Correct.

2 Q. So it just was sort of week-by-week?

3 A. Pretty much. Because once -- once you
4 got going, then, you know, you could say, you
5 know, like my 24-hour store, we did 25,000, you
6 know, whereas the other store down the street that
7 isn't, you know, did 12.

8 Well, the district manager then is going
9 to, you know, orchestrate what you can use. And
10 with a brand-new store, because it's a gray zone,
11 the only thing they can go on is, well, this store
12 in -- over here does 12 and they used X amount of
13 hours, so here's this with your budget. So that
14 would be up to the district manager. You'd have
15 to ask one of them how they got that information.

16 Q. But would it be fair to say that it was
17 maybe not as accurate because there was no
18 framework to go on from the previous year?

19 MS. REHMAN: Objection to form.

20 You can answer.

21 THE WITNESS: Actually, yeah. I don't
22 know how else they would come up with the
23 number other than -- because there's nothing
24 to go on.

25 BY MS. PUCKETT:

1 Q. Did that make it more challenging to
2 write the schedule week by week?

3 A. No, not more challenging, other than
4 if -- if the sales were a lot less than what they
5 had anticipated, you were going to have to tell
6 some people, well, you're only going to get 10
7 hours this week. If they understood or, you know,
8 whatever, got mad, there wasn't much you could do.
9 Just --

10 Q. So was -- okay. I think we'll come back
11 to that.

12 So we were talking about your move to
13 Oregon.

14 A. Can I interject something real quick?

15 Q. Oh, sure.

16 A. Back on the hiring, it hit me when we
17 were talking about --

18 Q. Absolutely.

19 A. -- interviewing --

20 Q. Yeah.

21 A. -- and decision-making and stuff.

22 Q. Sure.

23 A. There was a program out, I remember,
24 that before we could hire anybody, Rite Aid had a
25 program -- I can't remember the name of it.

1 stealing throughout your career at Rite Aid?

2 MS. REHMAN: Objection to form.

3 You can answer.

4 THE WITNESS: Yes.

5 BY MS. PUCKETT:

6 Q. Was that somebody that you hired or
7 somebody somebody else hired?

8 A. Both, really.

9 Q. Okay. Well, what's an example of
10 somebody that you hired that you eventually had to
11 fire for stealing? Do you remember a person's
12 name?

13 MS. REHMAN: Objection to form.

14 You can answer.

15 THE WITNESS: I don't remember the name.

16 I know it was a guy, and he worked with me
17 out in the Portland area. And loss
18 prevention came in and did these little
19 checks that they do, and he apparently came
20 up on their radar and then they interviewed
21 him and he admitted to taking products and
22 money, things like that.

23 BY MS. PUCKETT:

24 Q. Had you suspected that?

25 A. On him, um -- I want to say yes. And I

1 was the one that notified loss prevention.

2 Q. Did anyone ever, throughout your course
3 of employment with Rite Aid, get fired for
4 stealing that you didn't suspect was stealing?

5 A. Not stealing. I've had people fired
6 from loss prevention point -- or not loss
7 prevention, but from a point of view that I had no
8 control. Let's say they sold -- in one instance,
9 one of the cashiers sold cigarettes to a minor
10 without double-checking their ID, and of course
11 that's a big no-no, so they -- the police
12 department was the one that actually came back in,
13 told us what was going on, and then at that point,
14 it was out of my control. It was just, call loss
15 prevention, call the district manager, and we had
16 to -- there was a policy that just said, you know,
17 anybody that gets caught selling liquor or
18 cigarettes...

19 Q. Because that breaks the law, right?

20 A. Yeah.

21 MS. REHMAN: Objection to form.

22 You can answer.

23 THE WITNESS: You know, I don't know if
24 it's how the law is really written, because
25 nobody gets arrested. They get -- you know,

1 they come in and they say, you know, you're
2 going to get a fine. It's kind of like a
3 traffic ticket.

4 So I honestly don't know about if, from
5 a legal standpoint other than -- I mean, I
6 know everybody gets in a lot of trouble. The
7 store can get fined. If there's enough abuse
8 found in a particular location, they can lose
9 their license to sell tobacco and alcohol.
10 It's not pretty.

11 BY MS. PUCKETT:

12 Q. So Rite Aid has, actually, a lot of risk
13 if people violate this law; is that fair?

14 A. Oh, yes.

15 MS. REHMAN: Objection to form.

16 You can answer.

17 THE WITNESS: Yes.

18 BY MS. PUCKETT:

19 Q. And is that why there's a policy that
20 people doing it have to be fired?

21 MS. REHMAN: Objection to form.

22 You can answer.

23 THE WITNESS: I'm trying to think if it
24 is strictly a district-by-district as to
25 their tolerance, or if that is a company

1 pretty cut and dry or --

2 BY MS. PUCKETT:

3 Q. So you didn't find yourself disagreeing
4 with your district manager that often; is that
5 fair?

6 MS. REHMAN: Objection to form.

7 You can answer.

8 THE WITNESS: Not when it came down to
9 something that was just more or less
10 black-and-white. If there was something kind
11 of in the gray and fuzzy zone, it depends on
12 that particular individual that I'm dealing
13 with.

14 BY MS. PUCKETT:

15 Q. And by "that particular individual," you
16 mean the district manager?

17 A. The district manager, uh-huh.

18 Q. So some -- some district managers you
19 disagreed with more than others; is that fair?

20 A. Uh-huh.

21 Q. Yes?

22 A. Yes.

23 Q. So for the DMs that you disagreed with
24 more than others, do you remember an example of a
25 time that you disagreed with a district manager

1 and told him so, or her?

2 A. Nothing really comes -- nothing really
3 comes to light that would be, you know,
4 earth-shattering. A lot of the disagreements
5 would be, you know, like item placements.

6 Rite Aid dictated everything to the store
7 managers. You had to put this on this particular
8 end cap and you had to do these particular, you
9 know, plan-o-grams within this time frame and
10 such. And it would be -- it would be things like
11 that. It's just like, that is just not right, you
12 know, we can't sell that particular item, put it
13 on the end cap. It would be like, well, you don't
14 have any choice because corporate wants it there.
15 Or we're getting a visit from -- from, you know,
16 the regional vice president, and he's looking to,
17 you know, have signs put, you know, everywhere on
18 the store. It's like, you know, it looks
19 terrible, to -- you know, to do something like
20 that. You had no choice. It was dictated to you
21 and that was going to be it.

22 Q. We're talking about things like that had
23 to do with the appearance of merchandise in the
24 store and sign placement; is that right?

25 A. That would probably be the biggest area

1 of disagreements.

2 Q. So having owned your own store, was it
3 difficult for you to -- strike that.

4 Having owned your own store, you had
5 experience placing things in certain places and
6 deciding where to put them, right?

7 A. Uh-huh.

8 Q. Yes?

9 A. Yes.

10 Q. So sometimes things that Rite Aid
11 suggested in a plan-o-gram, you didn't agree with,
12 right?

13 MS. REHMAN: Objection to form.

14 You can answer.

15 THE WITNESS: Well, plan-o-gram is -- is
16 different than a profit plan.

17 BY MS. PUCKETT:

18 Q. Okay.

19 A. I'm not sure if -- a plan-o-gram would
20 be like setting toothpaste and deodorants and all
21 that. That is not a place of contention there.
22 It's their profit planner that they had for the
23 seasonal, that would be where it was mostly
24 disagreement.

25 Q. So why wasn't the plan-o-gram a place of

1 maybe discontinued fishing supplies so now there's
2 a 24-foot department. Well, what are we going to
3 do? How are we going to expand this? What are we
4 going to put in that hole? Well, we can expand
5 shampoos from eight foot to 12 foot and fill in
6 the holes. Then he or she would have to notify
7 corporate to say, you know, instead of an
8 eight-foot plan-o-gram, the store is going to have
9 a 12-foot plan-o-gram. So everything was dictated
10 from that point of view.

11 The store manager himself or herself
12 just couldn't arbitrarily go out and do it,
13 because if they did, the district manager may not
14 know that he or she expanded the department from
15 eight to 12. But the products aren't going to
16 come in because corporate is looking at that
17 store, saying, you've got an eight-foot shampoo --
18 why did I say "shampoo"? -- hairspray department,
19 and in our 12-foot department, we've got Pantene
20 Extra-Extra Hold, but in the eight-foot
21 department, we've only got Pantene Extra Hold.
22 See what I mean? So --

23 Q. So if I'm understanding you correctly,
24 the reason the store manager couldn't just change
25 the department size him or herself was because if

1 Rite Aid thought that you had a different size
2 department, the merchandise wouldn't come in
3 correctly; is that right?

4 A. Correct.

5 MS. REHMAN: Objection to form.

6 You can answer.

7 THE WITNESS: Correct, because there was
8 what's called an auto-replenishment and the
9 auto-replenishment was based off the scanned
10 sales. Well, it also had a little thing in
11 there that even if you had it in your store,
12 if it wasn't part of that particular
13 plan-o-gram size, it wouldn't be reordered.

14 Now, they could reorder it manually, but it
15 wouldn't come in automatically. And
16 therefore, if that store manager leaves, he's
17 expanded this eight foot to 12 foot, the new
18 manager comes in, doesn't realize that, well,
19 all of a sudden, he starts getting all these
20 outs in this 12-foot department. What's
21 going on? What's going on? And he doesn't
22 understand.

23 BY MS. PUCKETT:

24 Q. So that made sense to you, that they had
25 this check on the store manager's discretion; is

1 that fair?

2 MS. REHMAN: Objection to form.

3 You can answer.

4 THE WITNESS: A check?

5 BY MS. PUCKETT:

6 Q. Oh, well -- sorry. If -- so you're
7 saying that the store manager can't arbitrarily go
8 change the department size, and then you described
9 some of the consequences if that were to happen.
10 So I was just asking if that policy made sense to
11 you?

12 A. Yes, that makes sense. The only thing
13 that doesn't make sense is that if they've got
14 this system in place for auto-replenishment, just
15 because the department wasn't turned on for a
16 12-foot, and yet the product is, you know, there
17 and it gets scanned, why it wouldn't be reordered
18 for that store, even though they weren't set up
19 for the proper. Again, it's out of that store
20 manager's control.

21 Q. So did that ever happen to you, where
22 the product wasn't reordered in that circumstance?

23 A. Oh, all the time.

24 Q. So what did you do to fix it?

25 A. I had to contact the district -- well,

1 first I had to figure out what in the world was
2 the problem. A lot of what I would do is if I'd
3 go into these stores and I'd have to fix them up,
4 clean them up, because the store manager prior
5 screwed it up, I would have to first figure out,
6 what's the problem? Did they -- is it a
7 discontinued item, and they just didn't pull the
8 tag and spread out the way they were supposed to?

9 And spread out, I mean the item next to
10 it is still there, so they make two facings of it
11 instead of just one.

12 Is the department the wrong size? Just
13 try to investigate first to find out what's going
14 on here.

15 If it was the department size, and it
16 was an eight-foot set put in 12 foot, then I had
17 to contact the district manager, tell him or her
18 what it was, that we need to expand it from eight
19 to 12, get his or her approval. They would in
20 turn contact corporate. Corporate would in turn
21 say, okay, turn it on, and so it was a multi-step
22 process.

23 Q. So there were a couple of layers you had
24 to go through to get the problem corrected, right?

25 A. Correct.

1 Q. And you actually mentioned Maalox
2 earlier when you were talking about your sister
3 being one of the people who came in and checked
4 for that; is that right? Would that be on an end
5 cap?

6 MS. REHMAN: Objection to form.

7 You can answer.

8 THE WITNESS: I was just using that as
9 an example, that we didn't -- I mean, the
10 buyer would buy a particular product and then
11 place it on the profit planner for, say, that
12 given month, and then stores would receive
13 those items and were told where to put it.

14 BY MS. PUCKETT:

15 Q. Right. So do you know what I mean when
16 I say ad order?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes. Sorry.

20 Q. And when you say corporate sent in
21 merchandise, you mean that that -- that's based on
22 the ad order, right?

23 MS. REHMAN: Objection to form.

24 You can answer.

25 THE WITNESS: Not completely. There

1 was -- there was mass distribution that the
2 buyer would buy and ship in, and the stores
3 had no choice in the matter.

4 BY MS. PUCKETT:

5 Q. What's the buyer? What do you mean by
6 buyer?

7 A. Whoever the corporate buyer is. They've
8 got several of them up there.

9 Q. So --

10 A. They call them a category buyer.

11 Q. Okay. So they enter agreements with
12 suppliers, right?

13 A. I don't know how they do it, but...

14 Q. Okay. So it comes in from the ad order
15 and from certain categories; is that right?

16 MS. REHMAN: I'm going to object to
17 form.

18 THE WITNESS: Well, yes and no. Take
19 seasonal, Christmas, Easter, things like
20 that. We have no choice in, let's say, how
21 many Christmas trees are going to be shipped
22 to the store, because the buyer does that
23 maybe six, seven, eight, nine months back,
24 because they're dealing with China, whatever,
25 so they have to go off of how many sales, how

1 many 6-foot Christmas trees they sold.

2 So then for the next season they'll say,
3 all right, the company sold X amount of
4 6-foot Christmas trees, we see a positive
5 trend, so we're going to buy more 6-foot
6 Christmas trees. And then they're going to
7 take each one of those tier stores and say
8 the really good stores are going to get 20
9 trees, and the B stores are going to get 18
10 trees, and so on, so on.

11 So we had no control on those kind of
12 items.

13 BY MS. PUCKETT:

14 Q. Did you want control?

15 A. Absolutely.

16 Q. Why?

17 A. Because I knew what my store could sell.

18 Q. You knew what your store could sell?

19 A. Uh-huh.

20 Q. So you sometimes got merchandise that
21 you knew wouldn't sell?

22 A. Yes.

23 Q. And what did you do about that?

24 A. Nothing. You had to place it on an end
25 cap where they told you to put it and put the rest

1 in the back, place it as a little overstock symbol
2 or note on the shelf, and then just let it,
3 through attrition, work its way out.

4 Q. So things would work their way out
5 through attrition?

6 A. Uh-huh.

7 Q. Yes?

8 A. Yes, on sales.

9 Q. When you ran your own store, you got to
10 make all the decisions about what to order, right?

11 A. Yes.

12 Q. And your store went under, right?

13 A. Yes.

14 Q. With all the things that need to get
15 done in the Rite Aid store, do you think it would
16 make your job easier or harder if you had to make
17 all of the decisions?

18 MS. REHMAN: Objection to form.

19 You can answer.

20 THE WITNESS: That's a tough one. I
21 would say probably, with my experience, I
22 would say my job would have been easier.

23 BY MS. PUCKETT:

24 Q. If you got to make all the decisions?

25 A. If I could make the decisions.

1 Q. And that's -- and why is that?

2 A. Well, you become sensitive to each one
3 of the stores, the store that you're in. And,
4 like, ad ordering, I could -- I would know from
5 past sales how many tree lights I could order or
6 how many I could use.

7 Q. So that's how you were able to do the ad
8 order, based on your own sensitivity to each
9 store?

10 A. Initially.

11 MS. REHMAN: Objection to form.

12 You can answer.

13 THE WITNESS: Well, the ad ordering was
14 a computer-based system.

15 BY MS. PUCKETT:

16 Q. Right. It suggested numbers, and then
17 you could change them, right?

18 MS. REHMAN: Objection to form.

19 You can answer.

20 THE WITNESS: You could change them, but
21 the district manager could override.

22 BY MS. PUCKETT:

23 Q. How often did he do that for you?

24 A. For me, it was seldom.

25 Q. Because you were good at it, right?

1 MS. REHMAN: Objection to form.

2 You can answer.

3 THE WITNESS: Well, I was experienced at
4 it, and he trusted me.

5 BY MS. PUCKETT:

6 Q. And you were sensitive to each one of
7 your individual stores, right?

8 MS. REHMAN: Objection to form.

9 You can answer.

10 THE WITNESS: After I was there for a
11 little bit.

12 BY MS. PUCKETT:

13 Q. You had to spend some time there to get
14 to know the individual store before you would be
15 sensitive to its specific needs, right?

16 MS. REHMAN: Objection to form.

17 You can answer.

18 THE WITNESS: Well, like anything, yes,
19 you would have to be.

20 BY MS. PUCKETT:

21 Q. So for other store managers, the
22 district manager might change the ad order more
23 frequently than for you?

24 MS. REHMAN: Objection to form.

25 You can answer.

1 THE WITNESS: I don't know for sure if
2 it was the district manager that would be
3 doing that.

4 BY MS. PUCKETT:

5 Q. But you said that the district manager
6 trusted you, right?

7 MS. REHMAN: Objection to form.

8 You can answer.

9 THE WITNESS: Well, he trusted a lot of
10 people.

11 BY MS. PUCKETT:

12 Q. Some people he didn't trust, though,
13 right?

14 MS. REHMAN: Objection to form.

15 You can answer.

16 THE WITNESS: That, I couldn't tell you
17 for sure.

18 BY MS. PUCKETT:

19 Q. Because you were one of the people he
20 did trust?

21 A. Yes.

22 Q. So does it make sense to you that the
23 district manager would be able to tweak the ad
24 orders?

25 MS. REHMAN: Objection to form.

1 You can answer.

2 THE WITNESS: Well, initially they
3 could, and then they recently had changed the
4 ad ordering so that you just got what was
5 there.

6 You could -- the way it was, my
7 understanding, you could make a change to the
8 ad order, but it was pretty much locked in as
9 to what you were going to be getting, even
10 though you made the changes.

11 BY MS. PUCKETT:

12 Q. So the system would disregard the change
13 you made?

14 A. My understanding of it, yes.

15 Q. What do you mean, your understanding?

16 A. Well, it was brand new. It was just
17 coming out prior to me leaving, and they had
18 changed it so that it would say that you are
19 going -- you're going to sell six, you have three,
20 so you should order six more.

21 And if it was something that I thought
22 might be a real good seller, because of the price
23 or my neighborhood, I may want to bump it up to
24 nine or twelve. And the way I understood it is
25 that the -- the order may or may not come in --

1 Q. What do you mean --

2 A. -- at my suggested quantities.

3 Q. What do you mean, "may or may not"?

4 A. Just that the buyer, whoever, I don't
5 know who the power would be, but they -- it may
6 not come in. They may only send in the suggested
7 order.

8 Q. Did that ever happen to you while you
9 were there?

10 A. The new system, again, was brand-new to
11 me so --

12 Q. So you're just speculating, right?

13 MS. REHMAN: Objection to form.

14 You can answer.

15 THE WITNESS: Not on that. I'm not
16 speculating on how that worked completely.
17 But the older system, before they upgraded,
18 the district manager could change if he so
19 chose, you know, thought you ordered too much
20 or too little. And then the buyer could
21 change that if they decided that they wanted
22 to send more in.

23 BY MS. PUCKETT:

24 Q. And how often did that happen for you?

25 A. I couldn't say, because the ad ordering

1 was, you know, a weekly thing.

2 Q. So did you find yourself frustrated that
3 the buyer added more frequently, or was that also
4 seldom?

5 A. The seasons were about the only time
6 that it was more frustrating. But then I had no
7 control over the -- the quantities at that time.

8 Q. Because those weren't part of the ad
9 order, right?

10 MS. REHMAN: Objection to form.

11 You can answer.

12 THE WITNESS: Right. The seasonal items
13 weren't -- weren't even listed on the
14 computer screen to order.

15 BY MS. PUCKETT:

16 Q. So back to this new system. It's my
17 understanding, based on your testimony, that you
18 never actually experienced the new system. Is
19 that right?

20 A. It had only been around for a few months
21 prior to me leaving.

22 Q. And did you ever have the experience
23 that you suggested, where you ordered a certain
24 quantity and a different quantity came?

25 A. Not with the new system.

1 Q. You had that experience with the old
2 system?

3 A. Infrequently. There was times that
4 something more would come in and it was like, you
5 know, I don't remember ordering, you know, three
6 cases of this.

7 And again, when you go back into the
8 computer system and look under the PIFI screen I
9 was talking about earlier, it could tell you what
10 the reason was. It would say that you ordered
11 six, as a -- I think it was PC, which meant you
12 ordered it, but then right below it may be another
13 line, and it may say another 24. And it would
14 say, like, MA, for mass distribution -- MD for
15 mass distribution.

16 Q. So when a mass distribution came in, you
17 weren't expecting it, but it was one of those
18 situations that you had to deal with as the store
19 manager, right?

20 MS. REHMAN: Objection to form.

21 You can answer.

22 THE WITNESS: Yeah, it would -- it might
23 tell you that it was, you know, for some
24 seasonal or for an end cap. The shipping
25 label on the outside would tell you that this

1 Q. Observing for shoplifters?

2 A. Yeah. Shoplifting became kind of a
3 third wheel, though. Again, I don't know this for
4 a fact, but probably just because of liability,
5 they were afraid of somebody grabbing somebody
6 that really wasn't stealing.

7 You hear about it every once in a while,
8 you know, somebody got hurt in trying to catch a
9 shoplifter.

10 Q. So this is another balancing act between
11 trying to minimize shrink and also protecting
12 employees, right?

13 MS. REHMAN: Objection to form.

14 You can answer.

15 THE WITNESS: Yeah. It was always the
16 philosophy, you know, with Rite Aid, you
17 know, when in doubt, let it out.

18 BY MS. PUCKETT:

19 Q. So don't risk your personal safety or
20 the safety of the employees in your store?

21 A. That was -- that was the focus.

22 Q. Did you agree with that policy?

23 A. Yeah. Only because today's environment,
24 it can be, you know, pretty hostile out there.

25 Q. And did you have to inform HR before you

1 terminated someone?

2 A. Yes. And if there was, like -- like I
3 said previously, when I'm on my third written
4 notice or going to do my third written notice and
5 suspend and term, I would call them.

6 Q. And did they ever tell you not to
7 terminate someone?

8 A. Not with the documentation that I would
9 have had in hand.

10 Q. How many employees over the course of
11 your career at Rite Aid have you promoted?

12 MS. REHMAN: Objection to form.

13 You can answer.

14 THE WITNESS: Well, who I suggested to
15 probably be promoted would be more accurate,
16 and probably five or six.

17 BY MS. PUCKETT:

18 Q. And what positions were they promoted
19 from and to?

20 A. Store management also. I can't think of
21 anybody else, any other department I would have.

22 Q. What about a cashier to a shift
23 supervisor?

24 A. Yes, I've done that. And again, it's
25 the same procedure. I can recommend, but that's

1 it.

2 Q. Have you ever made a recommendation and
3 the person wasn't promoted?

4 A. It seems to me that it has.

5 Q. Is that pretty seldom or frequently?

6 A. Yeah, it was pretty -- yeah, it was
7 infrequent.

8 Q. You said infrequent, right?

9 A. Yeah.

10 Q. Can you remember a specific example of
11 when that happened?

12 A. Not a specific, but it seems like it was
13 something that I was going to promote somebody up,
14 and I think it had to deal with we just didn't
15 have enough payroll, that they thought better to
16 wait.

17 Q. Was that person eventually promoted?

18 A. I don't remember.

19 Q. So it was more of a timing issue than
20 the person shouldn't be promoted, right?

21 A. As far as my memory serves, yes.

22 Q. What about demotions? How many
23 employees did you demote --

24 MS. REHMAN: Objection.

25 BY MS. PUCKETT:

1 schedule people all over them, you know, when
2 they would have two, three, cashiers. You
3 know, then when the shift supervisor at night
4 would come on duty, it would be them and one
5 person.

6 And Staffworks was to help eliminate
7 that. Staffworks was supposed to eliminate
8 any outside influences. So when you'd put it
9 in it, so and so is available to work 9 to 5,
10 this person works 4 to 9; I mean, whatever
11 the available shifts were.

12 BY MS. PUCKETT:

13 Q. Right, but the store manager was able to
14 change what Staffworks generated, right?

15 A. Correct.

16 Q. So when you say it took away that
17 ability, that's not totally accurate. It just
18 generated a schedule that would eliminate that,
19 right?

20 MS. REHMAN: Objection to form.

21 You can answer.

22 THE WITNESS: Yes, it did. But where I
23 was going with that schedule -- or that thing
24 was after Staffworks was implemented and we
25 realized that the payroll had gone up, they

1 had taken it away from saying Staffworks,
2 just hit the button and enter and let
3 Staffworks write the schedule.

4 Rite Aid came back and said, no, you're
5 going to have to write your schedule based on
6 this many hours or this percent, it would
7 change.

8 Well, that messed up what Staffworks'
9 true intent was, was to take the manager out
10 of the loop, so to speak, to plug in who your
11 associates are, when they can work, and then
12 it would marry with the sales volume of your
13 store when you needed the most help in your
14 building.

15 BY MS. PUCKETT:

16 Q. So you still had to basically do it
17 manually?

18 A. Only because when -- when Rite Aid came
19 in and said you're going to get 175 hours this
20 week, when you hit the schedule generated from
21 Staffworks, it may tell you you should have 200
22 hours. So the store manager had to go in and
23 would have to edit out 20, 25 hours in order to
24 reach the hours that the district manager gave the
25 store to use.

1 Q. And the hours that they gave you to use,
2 that's, again, labor budgets, right?

3 A. I'm assuming they got it somewhere. All
4 we did was get our budget, for lack of a better
5 word. The district manager would say, this is
6 what you can use.

7 Q. And sorry, I just want to make sure that
8 we're talking about the same thing. We're talking
9 about labor budgets, right?

10 A. Hours that could be used, uh-huh.

11 Q. And do you know what the reason is for
12 labor budgets?

13 A. Well, it's to control costs. Payroll is
14 one of the largest expenditures that a store or a
15 company has.

16 Q. So it's bottom-line profitability,
17 right?

18 A. Yeah. It's a factor in it.

19 Q. Did you try to meet your labor budget?

20 A. Had to.

21 Q. Were some store managers not as good at
22 it as others?

23 MS. REHMAN: Objection to form.

24 You can answer.

25 THE WITNESS: Couldn't say how -- how

1 the other stores handled themselves, other
2 than on the conference calls that we would
3 have, the district manager would be, you
4 know, you used too many hours and so on.

5 BY MS. PUCKETT:

6 Q. So were you ever on the receiving end of
7 that, you used too many hours?

8 A. There might have been an occasion here
9 or there.

10 Q. But you weren't one of the regulars?

11 A. I wasn't, no.

12 MS. REHMAN: Objection to form.

13 You can answer.

14 BY MS. PUCKETT:

15 Q. So would you agree with me that some
16 store managers went over more than others?

17 MS. REHMAN: Objection to form.

18 You can answer.

19 THE WITNESS: That -- I mean, on a
20 regular ongoing basis, I couldn't say. I
21 mean, I just --

22 BY MS. PUCKETT:

23 Q. You can only say what you did, right?

24 A. What I did.

25 Q. And you didn't go over on a regular

1 going to go hourly. And if I'm not mistaken --

2 Q. So you --

3 A. -- I mean, because I -- they did that
4 shortly before I left. So -- but if I'm not
5 mistaken, it's hitting all the way across the West
6 Coast, because I believe an assistant manager that
7 I used to have out West went down to hourly, and
8 she --

9 Q. You said -- sorry. Go on.

10 A. And she was a salaried assistant.

11 Q. So are you talking about assistant
12 managers going from salary to hourly, or store
13 managers?

14 A. Both. They segmented -- like I said,
15 they segmented, and I'm not familiar with where
16 they came up with what they were doing or how they
17 were going to do it or whatever, but it was just
18 when we went to the meeting, it was you guys that
19 are here are going to be hourly, you guys that are
20 here are going to stay salaried, and all of the
21 assistant managers were going to go hourly.

22 And then he was just saying that
23 eventually other -- there's going to be more tiers
24 where they're going to be going to hourly rate.

25 Q. Okay. So you went to hourly, right?

1 A. I went to hourly.

2 Q. Were you happy about that?

3 A. Well, initially I was, because they
4 said, well, you know, you're going to be 45 hours
5 a week, and blah, blah, blah, blah. I thought,
6 cool, you know, it's 45 hours, and I normally work
7 50, 55 hours, somewhere in there. I'll get, you
8 know, a little extra pay.

9 And then it turned out that, no, you
10 don't go over 45 hours, period. If you do, you've
11 got to call me, which is the district manager,
12 first, before you can. So -- and the average
13 hourly rate that they -- they gave me, I really
14 couldn't quite understand how they came up with
15 that particular number, because what I was making
16 on the West Coast hourly, and salaried over on the
17 East Coast, and when they did their math, it came
18 out to like a dollar less than what I thought it
19 was. But I could never figure out exactly how to
20 get the math to gel.

21 Q. It turned out that it was a salary cut?

22 A. I felt that I lost a little. It was
23 pretty doggone close, but I felt like I lost a
24 little.

25 But what -- where the issue was, is that

1 I normally was, you know, taking my 50 hours, or
2 even a little more, and depending on what was
3 happening. Summertime you might be able to keep
4 it there. Christmastime, you were way up there in
5 the hours, so...

6 Q. So did being hourly and having to get
7 approval for overtime make it more difficult for
8 you to run your store?

9 MS. REHMAN: Objection to form.

10 You can answer.

11 THE WITNESS: That's two questions,
12 isn't it?

13 MS. PUCKETT: Maybe.

14 Can you read back the question, because
15 I don't even remember what I asked.

16

17 (Record read as follows:

18 "So did being hourly and having to get
19 approval for overtime make it more difficult
20 for you to run your store?")

21

22 THE WITNESS: I guess it was one
23 question, just a long one.

24 Overtime was -- you could call the
25 district manager and tell him, but the thing

1 was, is you may not know you're going to have
2 overtime, if it was going to happen, until
3 Saturday. Because if you were working your
4 store and then your shift supervisor or
5 somebody calls in sick Saturday and you had
6 to be the one to run down there, you're
7 hard-pressed to call the DMs and, hey, this
8 is what's going to happen.

9 But he always wanted to have -- to know
10 about anything above 45 hours a week.

11 As for running my -- my store, it became
12 more difficult, because while the hours
13 became restricted, the workload stayed
14 identical. So you had to cap ends a little
15 bit faster.

16 MS. PUCKETT: Okay. With that
17 understanding, I'm going to ask you to mark
18 up this job description, and I'm going to
19 procure a pen for you.

20 MS. REHMAN: You want him to write on
21 the exhibit?

22 MS. PUCKETT: Yes.

23 MS. REHMAN: Okay.

24 MS. PUCKETT: And then what we'll do is
25 we'll introduce a clean copy as Exhibit 6 and

1 profitability.

2 Q. So, in fact, keeping the store clean
3 improved loss prevention?

4 MS. REHMAN: Objection to form.

5 You can answer.

6 THE WITNESS: Well, you'd have to ask a
7 loss prevention guy on that one. But a
8 clean, organized, you know, store face, it's
9 just much easier to maintain and to run.

10 MS. REHMAN: Can I just ask how much
11 time is left?

12 THE REPORTER: I'd have to end the
13 program and calculate it.

14 MS. PUCKETT: I really only have a
15 couple more things.

16 MS. REHMAN: Okay. That's fine, then.

17 BY MS. PUCKETT::

18 Q. Number 9, "Responsible for hiring and
19 training." You wrote "Upon approval." You mean
20 that when you -- before you hired someone, you had
21 to obtain HR approval; is that right?

22 A. You had to get Quickscreen approval.

23 Q. Okay. So the person had to pass the
24 screening?

25 A. They'd have to pass the screening. And

1 then again, it depended on who you were hiring.
2 If you were hiring a cashier, they get approved,
3 you can proceed, whatever. But if you were
4 looking for a shift supervisor, that all had to go
5 through loss prevention and district management.

6 Q. So for management positions, there were
7 additional steps, right?

8 A. Correct.

9 Q. And I think you mentioned earlier
10 that -- strike that.

11 I'll just ask. Was there anyone that
12 you recommended to be a shift supervisor or a
13 manager that the -- that wasn't ultimately put in
14 that position?

15 A. I think we went through that on another
16 one. It wasn't that -- because they disagreed
17 with me wanting the person.

18 Q. Timing?

19 A. It was timing, payroll, budget cuts,
20 things like that.

21 Q. And that's the only time you remember
22 that?

23 A. As far as I can remember.

24 Q. Anybody else in your store other than
25 you responsible for hiring and training?

1 A. Only if I had an assistant manager that
2 was getting primed and ready for his own store.

3 Now, I wouldn't let them do the ultimate
4 end of it. I would let them go through the whole
5 procedure, talk to them, interview them, do the
6 whole procedure so that they would get a feel for
7 what's going on. And then if it all looked good,
8 and then they would just ask me, this is what I
9 found out, they would inform me, and I would just
10 kind of guide them, say, okay, well, if you feel
11 comfortable with it, go ahead and hire them.

12 I would let -- we would talk about
13 whatever the hourly rate would be, and then I
14 would send them back or let them go ahead and do
15 the procedure of actually hiring the person.

16 And then when they brought them in, I
17 would let them go through the whole training
18 aspect of it, making sure the paperwork is filled
19 out, all the CBTs were accomplished, done; and
20 that way, they were prepped for being a store
21 manager.

22 But that was the only time that I would
23 allow that.

24 Q. So, for example, Jim?

25 A. Uh-huh.

1 Q. Yes?

2 A. Jim, yes.

3 Q. So not -- so some of your assistant
4 managers did that and not others, right?

5 A. Well, again, like I said, it would be
6 those that were, you know, ready for store
7 management or that the district manager was
8 interested in, so we would -- I just really wanted
9 to make sure that that person was comfortable.

10 Q. So did you usually take their
11 recommendations?

12 A. At that point in time, I would. And
13 unless I just saw that person, you know, walking
14 around with their finger in their ear or
15 something, it was like, hmm.

16 Q. Did that ever happen that you recall?

17 A. No, no. It went pretty smooth.

18 Q. You didn't change the bottom paragraph,
19 "Supervisor Responsibilities." "This position
20 directly supervises store associates and carries
21 out supervisory responsibilities in accordance
22 with Rite Aid policies and applicable laws.
23 Responsibilities include interviewing, hiring,
24 training, directing, rewarding, and disciplining
25 associates, appraising associate performance, and

1 resolving complaints."

2 Is that accurate?

3 MS. REHMAN: Objection to form. You can
4 answer.

5 THE WITNESS: As best that I can say in
6 that short little sentence, by following
7 policies and procedures, I mean, that's what
8 I like to do.

9 BY MS. PUCKETT:

10 Q. Mr. Duran, why did you join this
11 lawsuit?

12 A. It's kind of complicated in that when
13 they took me down from salaried to hourly, it --
14 personally, it just seemed kind of insulting.
15 That was a lot of what separated the management
16 from -- from the employee base.

17 It -- when I was -- when I was salaried,
18 of course out West it was 50 hours for salary; out
19 East, it was 45 hours. And they took the -- it
20 was a great deal of pride in what I would do. And
21 I would work 50, 55, depending on the week. If
22 there was -- if there was an inventory, if it was
23 Christmastime, I could be working 60.

24 When they dropped me down and then said,
25 you're going to work 45 hours a week and you're

1 still going to do the same amount of work and
2 you're going to get it done in 45 hours, you know,
3 it was just like, you guys, you don't understand,
4 you know, that --

5 Q. So it was insulting?

6 A. It was. It was an insulting thing. And
7 then to be told that, you know, you can't go over
8 45 hours, and you must call me before you can get
9 any extra hours, you know, retail is not -- is not
10 a --

11 Q. Forty-hour-a-week job?

12 A. Forty-hour-a-week job. You know,
13 they -- there's just weeks when you need to have
14 more.

15 Q. Is that also why you left Rite Aid?

16 A. No. I left Rite Aid amidst a coupon
17 issue that they had at my store that just got
18 totally out of hand. And during the
19 investigation, it just -- the investigation went
20 south for me, and I was -- I was just not pleased
21 with the way they were -- they were handling it.

22 Q. But you voluntarily left, right?

23 A. Correct.

24 Q. You weren't fired?

25 A. No.

1 week, we might only get one on Sunday.

2 BY MS. REHMAN:

3 Q. Would you have any discretion as to what
4 the price change would actually be?

5 A. No.

6 Q. Did you work on the cash registers at
7 all?

8 A. Yes.

9 Q. About how many hours a day would you
10 spend on the cash register?

11 A. Well, again, it would be kind of
12 depending on what happened in the day. Somebody
13 goes on break or lunch, if I didn't have anybody
14 to watch the register, then it would be my
15 responsibility. If a cashier called in sick, then
16 I would be watching the cash register in the
17 mornings until I could find somebody.

18 So it's kind of tricky to answer that
19 one only because the situations dictated how much
20 time I would be on the cash register.

21 Q. Did you have a photo lab in all your
22 stores?

23 A. Yes.

24 Q. And did you have to work at the photo
25 lab?

1 A. Yes. The morning opening manager would
2 prep the photo register -- not register -- photo
3 machine, make sure the chemicals were full, run up
4 the water, and get it fired up so that it would be
5 ready for customers to have prints made.

6 Q. Did you have a photo lab tech or an
7 hourly associate you could assign to the photo
8 lab?

9 A. No, there wasn't enough hours in the
10 budget to really assign on a regular basis. Most
11 of the time it was the management team would jump
12 back there and help. If -- if it got really,
13 really busy and we needed somebody back there for
14 a great deal of time, we might do it our -- you
15 know, I might get back there so that the employees
16 could be able to get -- you know, take care of the
17 customers at the registers.

18 Q. While you were stocking or pricing or
19 unloading the truck or working at the cash
20 register or the photo lab, did Rite Aid still
21 expect you to supervise the store?

22 A. Of course.

23 Q. And if you were all the way in the front
24 of the store at the cash register, would you be
25 able to see your employees in the back end of the

1 store?

2 A. No.

3 Q. If you were stocking a shelf at the
4 bottom of the shelf, would you be able to see
5 employees in other aisles?

6 A. No.

7 Q. If you were in the back of the store
8 unloading the truck, would you be able to see what
9 was going on inside of your store?

10 A. No.

11 Q. Were you able to supervise all your
12 employees effectively?

13 MS. PUCKETT: Objection to form.

14 THE WITNESS: When unloading, like, the
15 truck or there was a big project that was
16 required, there would be no way that I could
17 do it effectively as it should be. You're so
18 busy doing your own thing, you don't know
19 exactly what that cashier is doing up front.

20 BY MS. REHMAN:

21 Q. You had testified that you had worked at
22 different stores in the management level. How did
23 your duties differ from what you experienced in
24 terms of managing a store at Walgreens versus
25 managing at Rite Aid?

1 A. It was a little different in that when I
2 was with Walgreens, they didn't have a lot of the
3 Staffworks and the computer programs, so we had a
4 lot more autonomy in what we were ordering. Rite
5 Aid -- I mean Walgreens used a program for your
6 sales for generating the amount of hours that were
7 going to be necessary.

8 Well, it didn't have Staffworks. You
9 would do a certain math procedure and say, I'm
10 going to do \$20,000 a week times this average
11 hourly rate. Then that would generate your hours
12 for you.

13 Q. Would you say that you had a lot more
14 control in terms of generating your hours at
15 Walgreens than Rite Aid?

16 MS. PUCKETT: Objection. You can't lead
17 your own witness.

18 MS. REHMAN: I'm crossing my witness. I
19 can ask him that.

20 MS. PUCKETT: Objection.
21 You can answer.

22 THE WITNESS: Well, again, times were a
23 little bit different, but yes, there was more
24 control that I had at the operation, only
25 because there was less computers out there

1 E R R A T A S H E E T

2

3 Pursuant to Rule 30(7)(e) of the Federal
4 Rules of Civil Procedure and/or Georgia Code
5 Annotated 81A-130(B)(6)(e), any changes in form or
6 substance which you desire to make to your
7 deposition testimony shall be entered upon the
8 deposition with a statement of the reasons given
9 for making them.

10

11 To assist you in making any such corrections,
12 please use the form below. If supplemental or
13 additional pages are necessary, please furnish
14 same and attach them to this errata sheet.

15

- - -

16 I, the undersigned, PETER E. DURAN, do hereby
17 certify that I have read the foregoing deposition
18 and that, to the best of my knowledge, said
19 deposition is true and accurate (with the
20 exception of the following corrections listed
21 below).

22

23

24

25

Exhibit BB

Yatram Indergit, et al. v. Rite Aid Corporation, et al.
Elma E. Echeverria

1:08-CV-09361-PGG-HBP
August 10, 2011

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|--------------------------------------|---|-----------------------|
| YATRAM INDERGIT, ON BEHALF OF |) | |
| HIMSELF AND OTHERS SIMILARLY |) | |
| SITUATED, |) | |
| |) | |
| |) | PLAINTIFF,) CASE NO. |
| |) |) 1:08-CV-09361 |
| |) |) -PGG-HBP |
| vs. |) | |
| |) | |
| RITE AID CORPORATION, RITE AID OF |) | |
| NEW YORK, INC., AND FRANCIS OFFOR AS |) | |
| AIDER & ABETTOR, |) | |
| |) | |
| |) | DEFENDANTS.) |
| |) | |

DEPOSITION OF ELMA E. ECHEVERRIA
TAKEN WEDNESDAY, AUGUST 10, 2011
LOS ANGELES, CALIFORNIA

Reported by Audra E. Cramer, CSR No. 9901

1 A. Correct.

2 Q. And if they passed all of that, then you could
3 offer them a job; right?

4 A. Correct.

5 Q. How many interviews did you conduct per
6 vacancy?

7 Does that make sense?

8 A. Yes.

9 Q. How many interviews did you conduct per
10 vacancy?

11 A. I didn't have too many vacancies in the four
12 years. So maybe I did it at the beginning of when I
13 started the store, because the company allowed you extra
14 payroll in the holidays for Christmastime. So I kind of
15 did -- the first year there, I kind of hired and had
16 more interviews at the beginning of the year. So I
17 think that I had, like, three to four people for that
18 Christmas season only, and at the end of the year
19 they're terminated. So it's just seasonal.

20 But as we went on through the years, the
21 company took that away, and you really didn't have
22 payroll to do that anymore. So during the year, I kind
23 of did very little, maybe one or two, and that's because
24 maybe one of the girls was on leave of absence and I had
25 to fill it just for that part of the time, so I would

1 have to bring someone.

2 Or what Mohammad liked to do was not to hire,
3 and bring someone from another store and put them in my
4 store. So we wouldn't have to deal with an associate --
5 a new associate, because after 90 days you have to
6 promise them their job.

7 Q. With the union there's a 90-day probationary
8 period; right?

9 A. Correct.

10 Q. And during that probationary period they can be
11 terminated?

12 A. Correct.

13 Q. And after that 90-day probationary period, you
14 have to go through the union if you want to terminate
15 them?

16 A. Not the union really. You have to go through
17 HR again.

18 Q. Okay. And during the 90-day period, if they do
19 something -- if they violate company policy or they are
20 insubordinate, you could fire that person; right?

21 A. We go back to the same thing: HR specifically
22 told us even on a 90-day probation we need to call him.

23 Q. If you called HR and you said, "I want to fire
24 this person that's in the 90-day period," and they said
25 okay, then you can fire that person?

1 A. Correct.

2 Q. And did you have any employees during the
3 90-day period that you wanted to fire and you
4 recommended that they be fired and they were fired?

5 A. I don't remember exactly how it happened, but I
6 did have one. I don't know if it went into the 90-day
7 or past the 90-day, but I did have one.

8 Q. And who was that?

9 A. I don't remember his name, but it was just an
10 older guy.

11 Q. We'll get to him. I know who you're talking
12 about. We'll get to him.

13 Did you fire any other employees in your store
14 at any other time?

15 A. I let go of some of associates, because we
16 offered them a job but didn't come in. So we have to
17 call HR, and his procedure would be call them; after
18 they don't show one day, call them the second time;
19 leave them a message. You had to leave a message either
20 on their phone or someone that they could reach it.

21 Once you did that, you called HR, and he will
22 say, "Okay. Have you done this procedure? Make a note
23 on the file that you have done this procedure, the date
24 and the times that you have called, file it, and then
25 call back and terminate them. And make sure you have

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1 that task. So it was a constant thing that I was
2 looking outside because I knew he was going to come in
3 sooner or later to make sure that was clean. Because as
4 soon as he walked in, if that was okay, then it went
5 smoother than coming already upset that he's looking at
6 the presentation of the store.

7 BY MR. PRICE:

8 Q. Did he know that you were doing these types of
9 tasks?

10 A. Oh, yeah, he knew. Because when I was working,
11 I was setting seasonals or stocking, he will walk into
12 my store and say, "Hi. How are you?"

13 MR. SCOTT: Object to the form of that last
14 question.

15 THE WITNESS: So...

16 BY MR. PRICE:

17 Q. Did he ever ask you why you didn't delegate
18 that work?

19 A. He knew why. He knew how many people were in
20 the store. His thing was, "Do whatever it takes to get
21 that store running."

22 Q. Did he tell that to you?

23 A. Yes.

24 Q. Did he ever try to stop you when he would walk
25 in and you would be doing something like stocking

1 shelves or things of that nature?

2 A. He would stop me if he needed to go into my
3 office. So he goes, "Can you go please open the office
4 for me." And I will open my office, and he will go in,
5 and I will continue doing my work.

6 Q. But he wouldn't say, "Hey, stop. You need to
7 get an associate to do this. You need to manage the
8 store"?

9 A. No. No.

10 Q. Okay. So I took us down another path. Back to
11 the outside part of the store.

12 Were there any other non-supervisory-type tests
13 that you did as a store manager outside the store?

14 A. I never had anyone to pick up my baskets, so I
15 will collect all the baskets in the shopping center
16 because there was insufficient associates. Run out, get
17 the baskets, come back in.

18 MR. SCOTT: Sorry. I'm going to object to that
19 question. Object to form.

20 BY MR. PRICE:

21 Q. So what percentage of your overall work on
22 average were you doing that you considered to be
23 non-supervisory?

24 MR. SCOTT: Object to form.

25 THE WITNESS: I would say non-performing

1 manager duties was -- like, 80 percent of my job I was
2 not doing manager duties.

3 BY MR. PRICE:

4 Q. I'm sorry. You said "non-performing"?

5 A. I wasn't going over Staffworks consistently. I
6 wasn't checking profit planner. I wasn't in my ad. It
7 wasn't one day's task or one hour task. It was couple
8 days' task. Because if you're selling that
9 merchandise -- right? -- the system doesn't pick it up
10 right away. It takes 48 hours to do it. So today I'd
11 say I'd go order -- the system says, "You have three
12 in stock," and then by when it's due -- on Wednesday in
13 the middle of the week it was due -- the system will
14 shut you down, and you can't order any more. You'd be
15 empty; right? But if I didn't have enough time to go
16 back into the system and sit down and go over that
17 paper, that wouldn't properly be ordered.

18 Q. But the answer to my question about the
19 percentage of time that as a store manager you did
20 non-supervisory type of work, what is that number?

21 MR. SCOTT: Object to form.

22 THE WITNESS: I would say 20 was management and
23 80 was non-management?

24 BY MR. PRICE:

25 Q. Now, you testified that you received lists from

1 Mohammad on a daily basis; is that right?

2 A. Correct.

3 Q. How were those communicated to you?

4 A. He would walk in, or there would be a
5 phone call early in the morning. I would have a
6 notepad, and I would write down what he specifically
7 told me.

8 Q. So you would write the list?

9 A. Yes.

10 Q. He would call and tell you what to write down
11 or what to do?

12 A. Correct.

13 Q. Did your doing these non-supervisory-type
14 duties affect your ability to manage the store?

15 MR. SCOTT: Object to form.

16 THE WITNESS: Yes.

17 BY MR. PRICE:

18 Q. Why?

19 A. If you're stocking and breaking and cleaning,
20 what percentage do you really have to supervise people
21 and tell them exactly what to do. Or even have
22 associates inside the store, you can't really delegate
23 what your title is. So it's just -- you're just not
24 doing the job you were hired for. You're just another
25 high-paid clerk.

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS.

3

4

5 I, ELMA E. ECHEVERRIA, hereby certify
6 under penalty of perjury under the laws of the State of
7 California that the foregoing is true and correct.

8 Executed this _____ day of

9 _____, 2011, at

10 _____, California.

11

12

13

14

ELMA E. ECHEVERRIA

15

16

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Exhibit CC

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Cheryl Ann Anderson**

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Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on Behalf
of Himself and Others
Similarly Situated

Plaintiff

Civil Action No.

vs.

08-CV-9361

RITE AID CORPORATION, RITE
AID OF NEW YORK, INC., and
FRANCIS OFFOR as Aider &
Abettor

Defendants

_____/

The deposition of CHERYL ANN ANDERSON was held on Wednesday, July 20, 2011, commencing at 9:38 a.m., at the Offices of Gore Brothers Reporting & Videoconferencing, 20 South Charles Street, Suite 901, Baltimore, Maryland 21201, before Ronald E. Bennett, Notary Public.

REPORTED BY: Ronald E. Bennett

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1 Q. The Randallstown store, did you ask to be
2 transferred there?

3 A. Did I ask? No.

4 Q. How did that come about?

5 A. It was a 24-hour store. They didn't have
6 any manager to take it. And they just transferred
7 me there temporarily until they found a manager to
8 do it.

9 Q. Finksburg was not a 24-hour store?

10 A. No.

11 Q. Do you know why they couldn't find a
12 manager to fill the Randallstown store?

13 A. I have no idea.

14 Q. Was the Randallstown store a stand-alone
15 store or in a shopping mall?

16 A. Shopping mall.

17 Q. Bigger or smaller in terms of size?

18 A. Bigger.

19 Q. Much bigger or somewhat bigger?

20 A. It was much bigger.

21 Q. How many employees front end worked at the
22 Randallstown store during the time you were there?

23 A. I would say roughly 12.

24 Q. Including you or not including you?

25 A. Including me.

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1 Q. How many pharmacy employees were there?

2 A. Pharmacy employees. Probably about eight.

3 Q. How many pharmacy employees were in the
4 employ of or employed by the store in Finksburg
5 during the time you were the store manager?

6 A. Five.

7 Q. What was the sales volume in the
8 Randallstown store?

9 A. Front end volume.

10 Q. Yes.

11 A. Roughly \$35,000.

12 Q. So the volume there was roughly
13 \$1.8 million a year, front end volume?

14 A. Roughly, yes.

15 Q. Do you agree with me that a store that has
16 roughly \$1.8 million in sales volume just in the
17 front end doesn't run itself?

18 MR. ELLWANGER: Object to form.

19 A. I didn't understand the question.

20 BY MR. TURNER:

21 Q. Somebody has to run the store, a store
22 that has \$1.8 million in sales volume. Do you agree
23 with that?

24 MR. ELLWANGER: Object to form.

25 A. Yes.

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1 BY MR. TURNER:

2 Q. As a store manager, that's what you did,
3 correct?

4 MR. ELLWANGER: Object to form.

5 A. That was a little impossible to do.

6 BY MR. TURNER:

7 Q. Why is that?

8 A. There wasn't enough hours in the store to
9 do it properly.

10 Q. Properly or not that is what you were
11 trying to do, correct?

12 A. That's what Rite Aid was asking me to do.

13 Q. But you aren't cable of doing it?

14 MR. ELLWANGER: Object to form.

15 THE WITNESS: It was impossible to do it
16 the way they outlined it to do.

17 BY MR. TURNER:

18 Q. How were they outlining it to do?

19 A. They wanted me to manager and supervise --
20 we had to do a lot of the work myself.

21 Q. There were periods of time where you were
22 able to come in under your payroll budget, correct?

23 A. Yes.

24 Q. And in coming in under your payroll budget
25 you were making decisions about the workforce that

1 you were going to have in your store, correct?

2 A. Usually when that happened it's usually
3 when somebody had called off from work.

4 Q. For an entire year your performance
5 evaluations you had periods of time where you were
6 under your payroll budget for the year, right?

7 A. Yes.

8 Q. As the store manager, you were making
9 decisions about how you were going to utilize the
10 front-end employees in your store, correct?

11 MR. ELLWANGER: Object to form.

12 THE WITNESS: Not entirely, no.

13 BY MR. TURNER:

14 Q. What is not entirely correct about that?

15 A. Well, when somebody was on vacation or the
16 DM pulled somebody else out.

17 Q. Absent those exceptions, you would be
18 making the decisions about who was going to work
19 when, correct?

20 MR. ELLWANGER: Object to form.

21 THE WITNESS: Usually the Staffworks
22 scheduled them.

23 BY MR. TURNER:

24 Q. Ms. Anderson, the Staffwork schedule came
25 out with a proposed schedule, correct?

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1 manager, absent something out of the ordinary, would
2 have been in the store when it was opened?

3 A. There would have been one of us at all
4 times, yes.

5 Q. And if you weren't there, there would be
6 an assistant store manager who would be the highest
7 ranking employee in the store?

8 A. Yes.

9 Q. Would that assistant store manager have
10 all the same authority that you had as the store
11 manager when they were the highest ranking employee
12 in the store?

13 MR. ELLWANGER: Object to form.

14 A. I didn't understand the question. Do you
15 mean -- did they run the store when I was not there?

16 BY MR. TURNER:

17 Q. Yes.

18 A. Yes.

19 Q. And would they call you at home, if
20 something happened?

21 A. Yes.

22 Q. How often did that happen?

23 A. Maybe once, twice a week.

24 Q. For the assistant store managers when you
25 were there, would you leave lists of things for them

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1 to complete?

2 A. Yes.

3 Q. Would you expect them to also leave lists
4 of things that needed to be completed when their
5 shift stopped?

6 A. They just -- the next person just picked
7 up on the same list.

8 Q. But in terms of deciding who was going to
9 do what on the list, would you do that or would you
10 expect your assistant store managers to do that?

11 A. I would expect my assistant manager to do
12 that.

13 Q. You wouldn't have a list that essentially
14 turned them into a robot. You expected them to use
15 their discretion and make decisions?

16 A. Yes.

17 MR. ELLWANGER: Object to form.

18 BY MR. TURNER:

19 Q. Did you have any turnover during the time
20 you were in the Randallstown store?

21 A. Yes.

22 Q. Did you terminate anyone?

23 A. There were terminations done, but I
24 physically did not do them.

25 Q. How many employees were terminated in the

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1 Randallstown store while you were there as store
2 manager?

3 A. Just in the first month was ten. And I
4 would say through the course 25 maybe.

5 Q. Did you make recommendations that any of
6 those employees be terminated?

7 A. Yes.

8 Q. How many employees did you recommend be
9 terminated during the time you were the store
10 manager at the Randallstown store?

11 A. About five.

12 Q. You said approximately you understood
13 potentially as many as 35 employees were terminated?

14 A. Yes. That was through loss prevention.

15 Q. During the 10 month period you were there
16 approximately 35 employees were terminated?

17 A. Approximately, yes.

18 Q. So five of them you made recommendations
19 they be terminated?

20 A. Yes.

21 Q. Who did you make those recommendations to?

22 A. My DM.

23 Q. Who was the DM that you made the
24 recommendations to?

25 A. John Libers.

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1 Q. Do you recall the names of the employees
2 you recommended being terminated?

3 A. No.

4 Q. Do you recall the reasons you recommended
5 any of them be terminated?

6 A. The ones that I recommended would have
7 been no shows and lateness.

8 Q. And did Mr. Libers follow your
9 recommendations?

10 A. Yes.

11 Q. So those five employees were in fact
12 terminated based on your recommendation?

13 A. Yes.

14 Q. Now the other employees, the other 30,
15 roughly 30 employees were terminated for loss
16 prevention issues?

17 A. Yes.

18 Q. What kind of loss prevention issues?

19 A. Some thefts. Some of them I really have
20 no clue.

21 Q. Did you ever witness any of those
22 employees actually stealing?

23 A. No.

24 Q. And did the loss prevention manager ever
25 seek your input before terminating any of those

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1 employees?

2 A. No.

3 Q. So that meant that -- if 35 employees were
4 terminated during that 10 month period, how many
5 employees were hired during that same period?

6 A. I would say probably 40.

7 Q. Describe the hiring process to me.

8 A. Are you talking about generally what it
9 was supposed to be or what actually happened?

10 Q. Let's talk about what it's supposed to be.

11 A. It's supposed to be the applicants filled
12 out the applicants. We look over them. Call them
13 in. We do an interview. Then they have to do a
14 phone interview, a background check before they can
15 be hired.

16 Q. You say we look through the resume. We
17 look through the applications. Who is we?

18 A. The store manager and the assistants. We
19 look over the applications.

20 Q. That's something you and your assistant
21 managers did?

22 A. Yes.

23 Q. You said there's a difference in what
24 actually happened?

25 A. Yes.

1 Q. What actually happened?

2 A. At the Randallstown store we actually
3 looked over the applicants, but we never did the
4 interviews themselves. The DM did all the
5 interviews and the hiring.

6 Q. You participated in some interviews,
7 correct?

8 MR. ELLWANGER: Object to form.

9 A. Not while at the Randallstown store.

10 BY MR. TURNER:

11 Q. In Finksburg you did interviews, correct?

12 A. Some of them, yes.

13 Q. And in Finksburg you followed what you
14 said it was supposed to be. You get an application,
15 look over it, call a person in, interview. And then
16 they would do the phone interview and background
17 check; is that right?

18 MR. ELLWANGER: Object to form.

19 THE WITNESS: Yes, but I never made that
20 final decision.

21 BY MR. TURNER:

22 Q. But you would make recommendations?

23 A. Yes.

24 Q. And your recommendations were followed at
25 times, correct?

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1 A. Not all the time, no.

2 Q. They were followed at times, correct?

3 A. Yes.

4 Q. Were your assistant store managers in
5 Finksburg also involved in the interview process?

6 A. Yes.

7 Q. Would they do interviews without you?

8 A. No.

9 Q. Were you training them?

10 A. Yes.

11 Q. You were training them in the hiring
12 process?

13 A. Yes.

14 Q. Would they make recommendations based on
15 the interview process to you?

16 A. Yes.

17 Q. Did you follow those recommendations?

18 A. Not always.

19 Q. Sometimes you did?

20 A. Yes.

21 Q. You did seek input from your store
22 managers who sat in interviews with you as to
23 whether potential employees should be hired?

24 A. Yes.

25 Q. Did you seek input from your assistant

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1 A. There were more training.

2 Q. A lot more training going on in that
3 store?

4 A. Yes.

5 Q. You don't have somebody come in and say go
6 run that cash register?

7 A. No.

8 Q. How would you train new employees when
9 they were hired in as a cashier?

10 A. First of all, you bring them in. They
11 have what they call CBT, computer training. They
12 have to sit through all those. You pair them up
13 with a cashier as a buddy to let them, teach them
14 how to run that register.

15 Q. I assume you would try to pick a cashier
16 for the buddy that you thought was a good cashier?

17 A. Correct.

18 Q. And there were varying levels of ability
19 in terms of cashiers, correct?

20 A. Correct.

21 Q. Some people, do you agree with me, are
22 self-starters?

23 A. Some of them.

24 Q. Some people need more watching over?

25 A. Correct.

1 Q. And part of your job, when you were in the
2 stores either Finksburg or Randallstown, was to make
3 sure your employees were completing the tasks
4 assigned to them?

5 A. Correct.

6 Q. When you were doing tasks, regardless of
7 what they were, you were responsible for making sure
8 that the store that the other tasks were being
9 completed inside your store?

10 A. Correct.

11 Q. And you would watch your -- you could
12 simultaneously do some work and also watch your
13 employees to make sure they were doing what they
14 were supposed to do?

15 A. At times. Sometimes if I'm in the back of
16 the store you can't see from the front-end cashier
17 is doing.

18 Q. Depending on where you were in the store
19 and what you were doing you would be able to
20 simultaneously monitor your employees and do other
21 work?

22 A. Like I said, if I was at the front of the
23 store, yes. If I was doing something in the middle
24 or back of the store, which most of the work is
25 being done, no.

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1 Q. Unless you had the employees there with
2 you or in that same area, correct?

3 A. If you had an extra -- most of the time,
4 like I said, there was just me and one cashier.
5 Very rarely there was a second one in the cashier.

6 Q. And the cashier in the pharmacy?

7 A. The cashier in the pharmacy was being
8 supervised by the pharmacy manager. We were
9 supposed to oversee, but if I'm out on the floor
10 doing tasks, it is impossible for me to watch the
11 pharmacy cashier.

12 Q. You had supervisory authority over the
13 pharmacy cashier, correct?

14 MR. ELLWANGER: Object to form.

15 THE WITNESS: I had but it was impossible
16 to do.

17 BY MR. TURNER:

18 Q. So at Randallstown you had new cashiers
19 being hired?

20 A. Yes.

21 Q. You had new shift supervisors being hired?

22 A. I only had one shift supervisor the whole
23 time.

24 Q. There was no turnover in the shift
25 supervisor position?

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1 help them or fix any problems?

2 A. Correct.

3 Q. And you would do that for all of the
4 hourly employees you were supervising in your store,
5 come March of a particular year, correct?

6 A. Well, the associates were done when they
7 reached that one year. Theirs weren't done at all
8 the same time. Just the assistant managers.

9 Q. So did you do evaluations of the employees
10 at Randallstown store?

11 A. There wasn't any to --

12 Q. Nobody made it a year without getting
13 fired, right?

14 A. Right.

15 Q. Did you do six-month evaluations with
16 them?

17 A. No.

18 Q. But you would give them input of your
19 thoughts that they were doing well or not doing well
20 on a regular basis?

21 A. Yes.

22 Q. And you expected your assistant managers
23 to do the same, correct?

24 A. Yes.

25 Q. Do you agree that the goal in each Rite

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1 Aid store that you worked, really Finksburg and
2 Randallstown during this time period that we are
3 talking about, was to make the store as profitable
4 as possible?

5 A. That was Rite Aid's goal, yes.

6 Q. What was your goal?

7 A. Oh, absolutely. I was working for the
8 company. I wanted them to do well, yes.

9 Q. Were you ever formally disciplined while
10 you worked as a store manager other than your
11 termination?

12 A. No.

13 Q. Were you ever verbally disciplined?

14 A. Yes.

15 Q. For what?

16 A. For going over payroll.

17 Q. You could go over payroll but somebody
18 would call and talk to you about it.

19 A. We were told absolutely no overtime.

20 Q. But we already talked about you still did
21 it?

22 A. Occasionally, yes, I did go over.

23 Q. During the time that you worked at the

24 Finksburg store from up until you left there to go

25 to Randallstown from January '07 until then, how

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1 many hours a week were you working?

2 A. I'm saying an average of 60 a week.

3 Q. How many days a week were you working?

4 A. An average of six.

5 Q. And how many hours a week was Joy working?

6 A. 50.

7 Q. Was she on a set schedule of 50?

8 A. Yes. Well, not really. Flexible schedule
9 of 50.

10 Q. Did you try to make sure that either you
11 or Joy were in the store at all times?

12 A. Yes.

13 Q. Did you discipline any employees at the
14 Finksburg store during that time period?

15 A. You're talking about Rite Aid?

16 Q. Yes.

17 A. Yes.

18 Q. You would exercise your discretion to
19 write them up for violation of company policy?

20 A. Basically what those were, they were no
21 shows.

22 Q. You could exercise your discretion what
23 you were going to do?

24 A. Yes.

25 Q. And you did that?

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1 A. Yes.

2 Q. Do you know if Joy ever disciplined any
3 employees during that time?

4 A. Not that I know of.

5 Q. Not formal written discipline?

6 A. Not formal written.

7 Q. But she did do verbal discipline?

8 A. Yes.

9 Q. At Randallstown how many hours a week do
10 you believe that you worked?

11 A. On an average 65-70.

12 Q. Was that a store that you were sent there
13 to try to turn it around?

14 A. Yes.

15 Q. And it was a store that was in trouble, I
16 guess would be one way of putting it?

17 A. Yes.

18 Q. What was wrong in the store when you
19 arrived?

20 A. The store was not faced. It was not --
21 the inventory level was way down. Shelves were
22 empty. Store was dirty. There was a huge turnover
23 of employees. They had basically taken out the
24 entire staff.

25 Q. When you have a lot of turnover, that's

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1 going to create different managerial duties for a
2 store manager, true?

3 A. True.

4 Q. Have to deal with training?

5 A. Yes.

6 Q. Have to deal with hiring?

7 A. Yes.

8 Q. Part of the hiring process is preparing
9 the new hire paperwork?

10 A. Correct.

11 Q. And you did that?

12 A. When I was at Randallstown, I sat up the
13 interviews, chose the applicants. The DM officially
14 did all the hiring.

15 Q. We talked about you made recommendations?

16 A. Right.

17 Q. And the district manager followed your
18 recommendations sometimes and others not?

19 A. Correct.

20 Q. But when somebody actually appeared for
21 work, you would do the new hire paperwork?

22 A. Yes.

23 Q. And you did that for potentially 40
24 employees just at Randallstown alone?

25 A. Correct.

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1 an Eckerd store was different than the operation of
2 a Rite Aid store?

3 A. I didn't see the operation of an Eckerd
4 store.

5 Q. So you don't know?

6 A. No. We went in the morning of the
7 computer transfer over.

8 Q. And had the stores already been rebranded
9 as well as Rite Aid?

10 A. Not all of them, no.

11 Q. Did they still have Eckerd product in
12 them?

13 A. Some of them did, yes. They were in the
14 transition of pulling the product off the shelf.

15 Q. And did you ever review the Eckerd Policy
16 and Procedures Manual?

17 A. No.

18 Q. Did you ever review the Eckerd store
19 operations manual?

20 A. No.

21 Q. From the time that you spent with
22 employees did you get the sense that there were
23 differences in the way the Eckerd stores had been
24 operated versus what you were trying to get them to
25 do in Rite Aid?

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1 A. I never discussed Eckerd. We were there
2 to train them on Rite Aid policies and the way Rite
3 Aid does the computers.

4 Q. Not just computers. There's other
5 policies and procedures?

6 A. Correct.

7 Q. You didn't form an opinion as to whether
8 this was useful time by you?

9 MR. ELLWANGER: Object to form.

10 BY MR. TURNER:

11 Q. If there weren't any differences, why
12 would you need to be there?

13 A. I would assume it was a different computer
14 system. I have no idea what an Eckerd store was ran
15 like. So I just assumed everything that I was
16 teaching them was all new to them.

17 Q. During these weeks where you would do this
18 how many hours a week did you work?

19 A. Those weeks? I would say 50 to 60.

20 Q. It varied?

21 A. It varied.

22 Q. Do you have any records you could go back
23 to to see what the actual time was?

24 A. No.

25 Q. Other than the stores you visited in the

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1 transition, the Eckerd transition, you have never
2 worked in any Rite Aid brand stores outside of a
3 single district during the relevant period, correct?

4 A. Correct.

5 Q. Do you recall what district that is?

6 A. The district number?

7 Q. Yes.

8 A. Don't recall.

9 Q. It was always within that one district?

10 A. Yes.

11 Q. And so you don't know what happened in
12 other stores in other districts which we have
13 already talked about?

14 A. No.

15 Q. You don't know whether it was different
16 running a urban store in Downtown New York, New York
17 versus a rural store in Finksburg, Maryland,
18 correct?

19 A. No.

20 Q. Is there any way you could know?

21 A. Not unless you would go ask somebody, no.

22 Q. Or go see for yourself?

23 A. Correct.

24 Q. But you do know there can be variations in
25 how stores are run based on just the two that you

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1 purposes of identification.)

2 BY MR. TURNER:

3 Q. Have you ever seen that document before
4 today?

5 A. Yes.

6 Q. What is it?

7 A. This looks like a self-appraisal that I
8 have done.

9 Q. I think you told me this would have been
10 at the Finksburg store, correct?

11 A. Yes.

12 Q. And there's a fax line at the top dated
13 March 15, 2006?

14 A. Yes.

15 Q. Do you have any reason to believe this was
16 not your 2006 self-appraisal?

17 A. No, I would say it would be.

18 Q. Now in the section that says, indicate the
19 objectives of your job where you have met or
20 exceeded them during this past year. Do you see
21 that?

22 A. You're talking about number 1?

23 Q. Yes, ma'am.

24 A. Yes.

25 Q. This is your handwriting, correct?

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1 A. Yes.

2 Q. If we turn to the second page. That's
3 your signature?

4 A. Yes.

5 Q. It is dated March 4, 2006?

6 A. Yes.

7 Q. You indicated that your belief or your
8 understanding of the objectives of your job were to
9 run a clean profitable and customer service oriented
10 retail store and to supervise all store associates
11 and all tasks. Did I read that correctly?

12 A. Yes.

13 Q. Is that accurate as to your understanding
14 of the objectives of your position as store manager?

15 A. That's the understanding, but that's not
16 reality of what happened.

17 Q. Well, we have talked about, you had in the
18 Finksburg store there were 7 to 8 front-end
19 employees?

20 A. Correct.

21 Q. So there would have been 6 to 7 front-end
22 employees who were subordinate to you, correct?

23 A. The 7 or 8 would include myself and my
24 assistant.

25 Q. Your assistant was still subordinate to

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1 you?

2 A. Yes.

3 Q. All the employees in the store on the
4 front end we have already talked about were
5 subordinate to you, correct?

6 A. Correct.

7 Q. Was there a change at some point in the
8 operations of Rite Aid that caused you, you keep
9 saying that's what it was supposed to be. Did
10 something happen --

11 A. They kept reducing the payroll hours. So
12 there wasn't enough hours to dedicate as much out as
13 they intended to suggest.

14 Q. You were still, as we have established, in
15 charge of your store regardless of what you were
16 doing?

17 A. Correct.

18 Q. And you could make decisions about what
19 task you would perform versus a task someone else
20 would perform?

21 A. Correct.

22 Q. And so, if you decided that the best use
23 of your time was to, for example, be at the cashier
24 so you could have more interaction with customers,
25 that's a choice you could make?

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1 come in.

2 Q. And it would depend on whether or not you
3 had employees absent or --

4 A. Correct.

5 Q. Did you ever have anyone assigned
6 specifically to the photolab?

7 A. No. There was not enough payroll for
8 that.

9 Q. How many employees at the Randallstown
10 store were trained to run the photolab?

11 A. At the Randallstown. One or two
12 associates. All depends who was there. Plus all
13 management staff.

14 Q. What about Finksburg?

15 A. Just the management staff.

16 Q. Is there any way we would know how much
17 time you spent in the photolab?

18 A. Per day?

19 Q. Yes.

20 A. Like I said, it would vary according to
21 the rolls of film that came in.

22 Q. And what type of staffing you had?

23 A. Yes.

24 Q. Do you understand the concept of
25 partnering with human resources?

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1 A. Partnering. No.

2 Q. If you wanted to terminate someone, you
3 would need to bring human resources in, correct?

4 A. Yes.

5 Q. Did you ever do that?

6 A. Yes.

7 Q. Did you understand why?

8 A. Not understanding it. I just understand
9 what DM had told us the process of what we were
10 supposed to be doing.

11 Q. You would share with HR what would have
12 happened and what you were planning to do?

13 A. Yes.

14 Q. And they would counsel you as to whether
15 you should or shouldn't; is that fair?

16 A. Yes.

17 Q. Ultimately did you understand the decision
18 was yours?

19 A. Not totally, no.

20 Q. It was a combination of the two parties,
21 you and HR?

22 A. Or the DM.

23 Q. When you returned to the Finksburg store
24 from Randallstown, how many hours a week were you
25 working at Finksburg?

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1 A. About 60 hours a week.

2 Q. At the Randallstown store how many hours a
3 week were your assistant managers working?

4 A. When I had Joy, she was working 50.

5 Q. At Randallstown?

6 A. At Randallstown they were each working 50.

7 Q. Scheduled for 50?

8 A. Yes.

9 Q. Do you have any reason to believe they
10 were working more than that?

11 A. There were times they did, if there was a
12 call out or we still had to finish a truck. But on
13 an average they didn't go too much over 60.

14 Q. Were there times when they worked less
15 than 50?

16 A. No.

17 Q. Throughout your employment at Rite Aid as
18 a store manager did you typically work on average 60
19 hours a week?

20 A. Yes.

21 Q. It was true regardless of changes in labor
22 budgets, correct?

23 A. Correct.

24 Q. As I understand what you're saying, the
25 changes in labor budget impacted more the actual

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1 duties you were performing rather than the hours you
2 were working?

3 A. Correct.

4 Q. But your management style had always been
5 lead by example?

6 A. Correct.

7 Q. Even when you had a bigger labor budget,
8 at some point in time is what I'm understanding you
9 to say. There was a point where you had more labor
10 available?

11 A. Not a whole lot more, but, yes, some.

12 Q. When did that change?

13 A. I would say the last five years it
14 drastically changed. Much lower.

15 Q. Wait a minute. Was it drastically or
16 somewhat? I'm not sure I understand. You just said
17 there was some change.

18 A. Well, especially the last year it changed
19 drastically. After losing my assistant they just
20 cut her 50 hours out completely.

21 Q. Okay. I understand what you're saying.
22 Up until that point you had always worked it out
23 with your employees?

24 A. Not as much.

25 Q. That's the last, that's when you went back

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1 A. No.

2 Q. Did the amount of product you sold change?

3 MR. TURNER: Object to form.

4 A. Most of the time new items came in all the
5 time.

6 BY MR. ELLWANGER:

7 Q. Did it get smaller?

8 A. The product?

9 Q. The number of items you were selling?

10 A. No.

11 Q. What portion of your day did you spend
12 working the register?

13 MR. TURNER: Object to form.

14 A. You're talking about hour wise?

15 BY MR. ELLWANGER:

16 Q. Sure. Percentage wise. Whatever you are
17 more comfortable with.

18 A. Probably percentage. I would say probably
19 20 percent.

20 Q. What percentage of time during your day
21 did you spend pricing items?

22 MR. TURNER: Object to form.

23 A. Some days we didn't price. Some days we
24 did. If we did, I would say 10 percent.

25 BY MR. ELLWANGER:

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1 Q. How many days out of an average week would
2 you price items?

3 A. About two.

4 Q. What percentage of your day would you
5 stock shelves?

6 MR. TURNER: Object to form.

7 A. It all depends on the day. Truck day I
8 would say 80 percent. On a regular basis I would
9 say 40 to 50.

10 BY MR. ELLWANGER:

11 Q. And the truck came once a week?

12 A. Once a week.

13 Q. What percentage of your day -- how many
14 day out of the week did you clean the store?

15 MR. TURNER: Object to form.

16 A. We were working on cleaning the store all
17 the time.

18 BY MR. ELLWANGER:

19 Q. But you specifically; how many days would
20 you clean the store in an average week?

21 A. When I closed, I faced the store just like
22 the assistant would do. She would close. And I
23 averaged three to four nights a week.

24 Q. What percentage of your day then would be
25 spent cleaning?

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1 MR. TURNER: Object to form.

2 A. 10 to 15 percent.

3 BY MR. ELLWANGER:

4 Q. Would you describe the tasks I just went
5 through as non-managerial duties or managerial
6 duties?

7 MR. TURNER: Object to form.

8 A. Non-managerial duties.

9 Q. Why would you say that?

10 MR. TURNER: Object to form.

11 A. Because it's something I could designate
12 to an associate, if I had an associate available to
13 do it.

14 BY MR. ELLWANGER:

15 Q. So why wouldn't you designate it to an
16 associate?

17 MR. TURNER: Object to form.

18 A. The associates ring customer service on
19 the register.

20 BY MR. ELLWANGER:

21 Q. Why didn't you just have another associate
22 come in to do those jobs?

23 MR. TURNER: Object to form.

24 A. The payroll would not allow me to do that.

25 BY MR. ELLWANGER:

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1 Q. Who sat payroll?

2 A. It was set by the REVP and through the DM
3 and down to us.

4 Q. REVP is regional vice president and DM is
5 district manager?

6 A. Yes.

7 Q. Who made the final decisions regarding
8 hiring staff at your store?

9 MR. TURNER: Object to form.

10 A. The DM.

11 BY MR. ELLWANGER:

12 Q. Who made the final decision regarding
13 firing staff at your store?

14 MR. TURNER: Object to form.

15 A. Either the LPM or DM.

16 BY MR. ELLWANGER:

17 Q. Who made the final decision regarding
18 disciplining staff at your store?

19 MR. TURNER: Object to form.

20 A. It all depends what the action was. If it
21 was a theft issue, it was the LPM. If it was some
22 other issues, could be the DM. There was few that I
23 did on my own.

24 BY MR. ELLWANGER:

25 Q. Who made the final decision regarding

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1 promoting staff at your store?

2 MR. TURNER: Object to form.

3 A. The DM.

4 BY MR. ELLWANGER:

5 Q. Who made the final decision regarding
6 setting payroll at your store?

7 MR. TURNER: Object to form.

8 A. The DM gave us the payroll budget.

9 BY MR. ELLWANGER:

10 Q. How much vacation were you given at Rite
11 Aid?

12 A. Throughout the time or as --

13 Q. Per year.

14 A. It was up to four weeks a year.

15 Q. Were you encouraged to take vacation?

16 A. Yes.

17 Q. Did you?

18 A. Yes.

19 Q. Do you recall being asked questions about
20 how you accepted your paycheck whether you worked
21 more than 40 hours a week or worked less than 40
22 hours a week?

23 A. Yes.

24 Q. Not talking about weeks where you took
25 vacation or sick days. But in your 21 years as a

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1 store manager at Rite Aid, did you ever work less
2 than 40 hours a week?

3 MR. TURNER: Object to form.

4 A. No.

5 MR. ELLWANGER: Pass the witness.

6 MR. TURNER: Does that mean you are done?

7 MR. ELLWANGER: Unless you have a bunch of
8 other questions.

9 MR. TURNER: I do.

10 MR. ELLWANGER: Well, in that case I
11 reserve the right to rebut, if necessary.

12 EXAMINATION BY MR. TURNER:

13 Q. You previously testified that with respect
14 to the discipline that you issued to Ms. Schultz,
15 you also understood you had that authority and
16 ability to do it as to other employees as well. Do
17 you recall that?

18 A. Yes.

19 Q. And now your testimony is that you only
20 did it as to Ms. Schultz. Is that true or not?

21 A. Totally myself. Everybody else was either
22 the DM or LPM was involved in discrimination, the
23 warnings.

24 Q. You would bring them in, correct?

25 A. I would call them, yes.

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

CHERYL ANN ANDERSON